



Department of Development Services
205 Lawrence Street
Marietta, Georgia 30060
Brian Binzer, Director

STAFF REVIEW AND RECOMMENDATION

Variance Case #: V2009-26

Legistar #:

Board of Zoning Appeals Hearing: Monday, December 21, 2009 – 6:00 p.m.

Applicant: Tom Whitehead
2100 Roswell Road, Suite 210D
Marietta, GA 30062

Property Owner: Marietta II (E&A) LLC
c/o Edens & Avant
1901 Main Street, Suite 900
Columbia, S. C. 29201

Address: 280 Cobb Parkway South

Land Lot: 16 **District:** 12380 **Parcel:** 0200

Council Ward: 7 **Existing Zoning:** Community Retail Commercial (CRC)

Special Exception / Special Use / Variance(s) Requested:

1. Variance to allow a wall sign to be placed on a building face that does not abut a public roadway or designated access drive to a planned center. [Section 714.04 (B)]

Statement of Fact

As per section 720.03 of the Comprehensive Development Code of Marietta, the Board of Zoning Appeals may alter or modify the application of any such provision in the Development Code because of unnecessary hardship if doing so shall be in accordance with the general purpose and intent of these regulations, or amendments thereto, and only in the event the board determines that by such alteration or modification unnecessary hardship may be avoided and the public health, safety, morals and general welfare is properly secured and protected. In granting any variance the board of zoning appeals shall designate such conditions in connection therewith as will, in its opinion, secure substantially the objectives of these regulations and may designate conditions to be performed or met by the user or property owner, out of regard for the public health, safety, comfort, convenience, and general welfare of the community, including safeguards for, with respect to light, air, areas of occupancy, density of population and conformity to any master plan guiding the future development of the city. The development costs of the applicant as they pertain to the strict compliance with a regulation may not be the primary reason for granting a variance.

Criteria:

1. Exceptional or extraordinary circumstances or conditions *are/are not* applicable to the development of the site that do not apply generally to sites in the same zoning district.

2. Granting the application *is/is not* necessary for the preservation and enjoyment of a substantial property right of the applicant, and to prevent unreasonable property loss or unnecessary hardship.
3. Granting the application *will/will not* be detrimental or injurious to property or improvements in the vicinity of the development site, or to the public health, safety, or general welfare.

PICTURES



280 Cobb Parkway South, Suite D



Subject Property and Detached Monument for Walmart

Recommended Action:

Approval with stipulations. The petitioner, Tom Whitehead, is requesting a variance to allow the continued placement of a wall sign for Sprint. Located at 280 Cobb Parkway South, Suite D, Sprint occupies the most northern tenant suite in a WalMart outparcel along Cobb Parkway South. Other tenants in the building include Mattress Firm and Anna's Linens. Chick-Fil-A occupies the parcel to the north and has submitted a letter stating their support of the application. To the south is a strip center housing various retail suites. An access road running from Cobb Parkway South into the WalMart parking lot is south of the subject property. All adjacent parcels, including the subject property, are zoned Community Retail Commercial (CRC).

According to Section 714.04 (B) "*wall signs shall be restricted to building faces that abut public roadways or designated access drives to planned centers.*" Although the Sprint suite has three exterior walls, only the east and west elevations actually face a public road or access drive. The north elevation only faces a parking lot that lies between the building and the Chick-Fil-A to the north. In 2006, a sign permit (06-10) was erroneously issued for a 23 s.f. channel letter Sprint sign on the side of the building. A second sign permit was applied for in 2007 (07-1680) for a 24 s.f. channel letter Sprint sign on the side of the building and was denied.



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The Board of Zoning Appeals has heard cases in the past similar to this one. On June 26, 2006, per V2006-23, the Board of Zoning Appeals approved a variance request by The Battery Depot, LLC, located at 51 Cobb Parkway South, to allow a wall sign on a building elevation that does not abut a public roadway or access drive. Two added stipulations required the applicant to forgo a freestanding monument sign at this location as well as require the wall signs to comply with all other zoning requirements. On May 23, 2005, per V2005-08, a variance request for the TireStar at 942 Roswell Street was denied. The applicant had requested permission to place wall signs on both sides of the building, despite neither side directly facing a roadway or access drive.

In this particular building, none of tenants have advertising on the monument sign nearby. It is likely that this monument is reserved for the businesses that are further set back from Cobb Parkway. Taking into consideration the approved variance for The Battery Depot across the street, staff recommends approval of this variance with two stipulations – that the tenant shall not be able to utilize the existing monument; and that the tenant shall not be allowed to have a wall sign on the side of the building facing the access road that runs from Cobb Parkway into the WalMart parking lot to the south of the subject property. In this case, granting the application will not be detrimental or injurious to property or improvements in the vicinity of the development site, or to the public health, safety, or general welfare.

Staff recommends approval of this variance with the following stipulations:

- 1. The tenant shall not be able to utilize the existing monument for signage.***
- 2. The tenant shall not be allowed to have a wall sign on the side of the building facing the access road that runs from Cobb Parkway into the WalMart to the south of the subject property.***